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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92057366
Party	Defendant UVCleaning Systems, Inc.
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Attachments	MOTION TO STAY THE CANCELLATION.pdf(153799 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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1047406 Ontario Ltd. and)	
Purifics ES, INC.,)	
Petitioners,)	MOTION TO STAY CANCELLATION
)	OF THE REGISTRATION FOR
v.)	PURALYTICS
)	
UVCleaning Systems, Inc., dba Puralytics)	Cancellation No.: 92057366
Corporation,)	
Registrant.)	
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MOTION TO STAY THE CANCELLATION

The Board should grant a stay pending resolution of fully briefed Opposition 91194706 because:

1. fully briefed Opposition 91194706 concerning PURALYTICS will moot this case when it is decided in favor of Registrant;
2. the Board can conserve its own and also the parties' resources by staying this case;
3. there will be no prejudice to the Petitioners; and
4. the Board's Rules provide for a stay in this context.

Registrant asked Petitioners to consent to a stay on August 8. Two weeks later, on August 22, Petitioners declined to consent. Accordingly, Registrant files this motion to seek a stay.

An Opposition concerning the same word as the current mark has been fully briefed since May 2013. It will moot this Cancellation when the Board finds in favor of Registrant. In that regard, the registration sought to be cancelled in this case identifies "[p]ortable sunlight activated water purification units." The application that is the subject of the fully briefed Opposition is App. No. 77861438 for "[w]aste water purification units; [w]ater purification and filtration apparatus; and [w]ater purification units" (opposed in Opp. No. 91194706). When Registrant wins the Opposition concerning its water purification units, Petitioners will not be able to maintain this Cancellation against Registrant's "[p]ortable sunlight activated water purification units."

By staying this case while the Opposition is pending the Board will conserve its own resources as well as those of the parties. Since Board is unlikely to find that the marks at issue in the pending Opposition conflict, the Board is likely to rule in favor of Registrant. When that occurs, this case will be mooted. If the Board does not stay this case pending the outcome of the Opposition, it will require the parties to engage in unnecessary discovery and motion practice.

Petitioners will not be prejudiced if the Board stays this case since their Cancellation has been lodged and it can be taken up in due course in the unlikely event that it becomes necessary. Moreover, further reducing any possible prejudice, the Opposition should be decided soon as it has been fully briefed for months. Because the Opposition has been fully briefed, this case is unlikely to be stayed for an unreasonable amount of time. In addition, Petitioners requested and/or consented to 10 extensions and a suspension totaling 500 days in the pending Opposition. Petitioners' extension of the Opposition for the better part of two years demonstrates that a small delay from staying this case should not cause any prejudice to Petitioners.

Finally, the Trademark Rules provide for a stay in these circumstances. The Trademark Rules provide that "[w]henever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in ... another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding." 37 C.F.R. 2.117.

A stay makes sense in this case.

Registrant requests that the Board stay this case pending a decision in fully briefed Opposition 91194706.

Dated: September 4, 2013

Respectfully submitted,

UVCLEANING SYSTEMS, INC. dba
PURALYTICS CORPORATION

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 4, 2013, the foregoing MOTION TO STAY, was served on Petitioners' attorneys by first class mail, to:

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